Attorney Docket No. 7636-0020.30

#18/A

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C., 20231, on:

Date: 6/27/01 By: Deborah Brockmeyer

7-10-01

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Laus, *et al.*

SERIAL NO.: 09/461,684

FILED: December 14, 1999

FOR: **COMPOSITIONS AND METHODS FOR ENHANCEMENT OF MAJOR HISTOCOMPATABILITY COMPLEX CLASS I RESTRICTED ANTIGEN PRESENTATION**

EXAMINER: Dibrino

ART UNIT: 1644

Amendment in Response to Restriction Requirement

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated March 27, 2001, please amend the application as follows.

In the Claims

Please cancel claims 8-18, without prejudice.

REMARKS

I. Restriction Requirement

In the above referenced Office action, the Examiner divided the claims into the following groups: I. Claims 1-7, drawn to an antigenic composition comprising an antigen with an added peptidic sequence; II. Claims 8-14, drawn to a therapeutic composition comprising an ~~antigen~~ APC with an added peptidic sequence; and III. Claims 15-18, drawn to a method of immunizing a subject against a tumor or pathogen.

In response, the applicants elect Group I without traverse. Non-elected claims 8-18 have been canceled.

II. Election of Species

The Examiner also requested an election of an antigen with a specific added peptidic sequence in the antigenic composition of Group I.

In order to make a substantive response to the Office Action mailed March 27, 2001, Applicants make a provisional election of the sequence presented as SEQ ID NO:6, with traverse. Claims 1-2, and 4-7 read upon this species.

Applicants direct the Examiner to M.P.E.P. Section 803.04 (entitled Restriction - Nucleotide Sequences), which states that "Nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 et seq. Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided sua sponte to partially waive the requirements of 37 CFR 1.141 et seq. and permit a reasonable number of such nucleotide sequences to be claimed in a single application. (See Examination of Patent Applications Containing Nucleotide Sequences, 1192 O.G. 68 (November 19, 1996). It has been determined that normally ten sequences constitute a reasonable number for examination purposes." (emphasis added)

Given that the claims of the instant application are directed to 7 sequences, it is Applicants' position that the presently claims sequences should be considered a single invention by the PTO for purposes of examination, consistent with PTO policy, as set forth above.

Accordingly, Applicants request that the Examiner reconsider the restriction requirement in the next Office Action.

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 324-0880.

Respectfully submitted,

Date: 6-27-01

Larry W. Thrower
Registration No. 47,994

Correspondence Address:
Customer No. 22918